

REMARKS

New dependent claims 51-59 are added. The new claims are supported by the originally-filed application at, for example, pages 7 and 13, and Figs. 6-7. Claims 31-40 and 51-59 are pending in the application.

Claims 31-32 stand rejected under 35 U.S.C. §102(e) as being anticipated by Chung, 2003/0205815. Claims 31, 35-37, 39-40 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Wong et al., 5,946,601, in view of Cohen et al., 2004/0051178. Claim 33 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Wong et al. and Cohen et al., and further in view of Lin. Claim 34 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Wong et al. and Cohen et al., and further in view of Matsuno. Claim 38 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Wong et al. and Cohen et al., and further in view of Stamper.

The earliest priority date for the publication to Cohen is November 1, 2000 (see "Related U.S. Application Data"). The earliest priority date for the above-referenced application is August 31, 2000 (see Preliminary Amendment filed July 23, 2003). Since the priority date of the above-referenced application pre-dates the priority date of Cohen, Cohen cannot be used to reject the claims of the above-referenced application. Accordingly, the rejections that include Cohen must be withdrawn.

Claims 33-40 stand rejected based on various combinations of references that include Cohen. No other rejections are presented against claims 33-40, and therefore, claims 33-40 are allowable.

Claim 31 stands rejected as being anticipated by Chung (excluding the improper obviousness rejection based on the combination of Wong and Cohen). Claim 31 is amended to recite an etch-stop layer being formed between a low-K material and a dielectric material, an **entirety** of the etch-stop layer being elevationally below the **upper surfaces of the spaced conductive layers**. Support for the amendment language is provided by exemplary embodiments disclosed in the originally-filed application at, for example, page 7. Chung provides two sentences to etch-stop layers stating that an objective can be achieved by adding an etchstop (sic) layer in between a resist and an organic IMD (inter-metal dielectric) so that either the resist or the organic dielectric can be selectively removed (para. 0007 of page 1). Such a teaching of Chung cannot be fairly or reasonably stated to teach or suggest an **entirety** of the etch-stop layer being elevationally below the **upper surfaces** of the spaced conductive layers as positively recited in claim 31. Accordingly, Chung fails to teach or suggest a positively recited limitation of claim 31, and therefore, claim 31 is allowable.


Claims 32-40 and 51-59 depend from independent claim 31, and therefore, are allowable for the reasons discussed above with respect to the independent

claim, as well as for their own recited features which are not shown or taught by the art of record.

This application is now believed to be in immediate condition for allowance, and action to that end is respectfully requested. If the Examiner's next anticipated action is to be anything other than a Notice of Allowance, the undersigned respectfully requests a telephone interview prior to issuance of any such subsequent action.

Respectfully submitted,

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